

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

TAYLOR BOONE,

Plaintiff,

v.

ACTION NO. 2:21cv482

UNITED STATES OF AMERICA,

Defendant.

ORDER

Plaintiff Taylor Boone ("Plaintiff"), appearing pro se,¹ filed this action against Defendant United States of America ("Defendant") pursuant to the Federal Tort Claims Act, based on Plaintiff's alleged receipt of negligent medical care. Compl. at 1-14, ECF No. 3. This matter is before the court on Defendant's Motion to Depose Witness Out of Time ("Motion to Depose") and Motion to Compel. Mot. Depose, ECF No. 11; Mot. Compel., ECF No. 13. For the reasons set forth below, Defendant's Motion to Depose, ECF No. 11, and Defendant's Motion to Compel, ECF No. 13, are **GRANTED**.

I. Defendant's Motion to Depose

Pursuant to the Rule 16(b) Scheduling Order, Defendant's fact discovery period closed on May 31, 2022. Rule 16(b) Scheduling Order at 2, ECF No. 9. On May 27, 2022, prior to the close of Defendant's

¹ The court notes that although Plaintiff is proceeding pro se in this action, Plaintiff is a practicing attorney. See Order at 1 n. 1, ECF No. 15.

fact discovery period, Defendant filed a Motion to Depose, in which it seeks authorization to depose Plaintiff's wife, Melissa Boone, out of time. Mot. Depose at 1, ECF No. 11.

In its motion, Defendant states that its counsel initially noticed the deposition of Ms. Boone for April 5, 2022; however, due to issues regarding Ms. Boone's availability, both parties agreed to reschedule Ms. Boone's deposition. Mem. Supp. Mot. Depose at 1-2, ECF No. 12. Defendant further states that its counsel made additional efforts to schedule Ms. Boone's deposition prior to its May 31, 2022 fact discovery deadline, but Plaintiff has not agreed to a date. Id. at 2. Defendant's counsel recently noticed Ms. Boone's deposition for June 16, 2022, and because this date falls outside of Defendant's fact discovery deadline, Defendant seeks leave of court to proceed with the deposition. Id.

Plaintiff did not file an Opposition to Defendant's Motion to Depose, and his deadline to do so has expired. See E.D. Va. Loc. Civ. R. 7(F)(1) (explaining that "the opposing party shall file a response brief" to a moving party's motion "within fourteen (14) calendar days after service").

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, when a party must act within a specified time, and the party requests an extension of time to act before its original deadline expires, the court may grant an extension of time for good cause. Fed. R. Civ. P. 6(b). Under the circumstances summarized above, the court

finds that Defendant has established good cause for its requested relief. Accordingly, Defendant's Motion to Depose, ECF No. 11, is **GRANTED**.

II. Defendant's Motion to Compel

Defendant asks the court to compel Plaintiff to respond to its Second Set of Interrogatories and Second Set of Requests for Production of Documents. Mot. Compel at 1, ECF No. 13. To support its request, Defendant states that (i) its counsel mailed and e-mailed the above-referenced discovery requests to Plaintiff on April 21, 2022; (ii) Plaintiff's responses were due on May 23, 2022; and (iii) Plaintiff did not object or respond to the discovery requests. Id. Defendant further states that its counsel followed up with Plaintiff on May 24, 2022, and on May 31, 2022; however, Plaintiff did not respond to counsel's inquiries. Id. Plaintiff did not file an Opposition to Defendant's Motion to Compel, and his deadline to do so has expired. See E.D. Va. Loc. Civ. R. 7(F)(1).

If a party fails to answer an interrogatory or produce requested documents, Federal Rule 37(a)(3)(B) allows the requesting party to file a motion to compel responses. Fed. R. Civ. P. 37(a)(3)(B). As summarized above, Defendant asserts that Plaintiff failed to object or respond to its Second Set of Interrogatories and Second Set of Requests for Production of Documents. Mot. Compel at 1. Plaintiff did not oppose Defendant's motion or otherwise challenge the assertions made therein. Accordingly, Defendant's Motion to

Compel, ECF No. 13, is **GRANTED**. Plaintiff is **ORDERED** to serve Defendant with his responses and/or objections to Defendant's Second Set of Interrogatories and Second Set of Requests for Production of Documents within fourteen days from the date of entry of this Order.

III. Conclusion

For the reasons set forth above, Defendant's Motion to Depose, ECF No. 11, and Defendant's Motion to Compel, ECF No. 13, are **GRANTED**. Plaintiff is **ORDERED** to serve Defendant with his responses and/or objections to Defendant's Second Set of Interrogatories and Second Set of Requests for Production of Documents within fourteen days from the date of entry of this Order.

The Clerk is **DIRECTED** to send a copy of this Order to Plaintiff and counsel for Defendant.

IT IS SO **ORDERED**.

/s/ [Signature]
Rebecca Beach Smith
Senior United States District Judge

June 14, 2022